IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

WP(C).No. 23635 of 2007(L)

PETITIONER:

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1. **ALASSANKUTTY HAJE, S/O. BEERANKUTTY, AGED 93 YEARS, ALANGADAN, P.O.PARAPPUR, VIA. KOTTAKKAL, KOZHIKODE DISTRICT.**

2. **KUNHAVARU, S/O. ALASSANKUTTY HAJE, AGED 66 YEARS, ALANGADAN, POST PARAPPUR, VIA. KOTTAKKAL, KOZHIKODE DISTRICT.**

3. **SIDHIK, S/O. POCKER, AGED 35 YEARS, III/450, KUNNAPPALLI, VALAVANNUR, MALAPPURAM DISTRICT.**

4. **MOIDEENKUTTY, S/O. MOIDEEN, AGED 70 YEARS, XI/144, KARUMBIL MIKACHA, POST TIRURANGADI, MALAPPURAM DISTRICT.**

5. **BIYYAKUTTY, W/O. MOIDEENKUTTY K.M., AGED 63 YEARS, XI/144, KARUMBIL MIKACHA, POST TIRURANGADI, MALAPPURAM DISTRICT.**

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS:

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1. **KERALA HAJ COMMITTEE, REPRESENTED BY EXECUTIVE OFFICER, DISTRICT COLLECTOR, KOZHIKODE, POST PUTHIYARA, KOZHIKODE-4.**

2. **THE HAJ COMMITTEE OF INDIA, 1ST FLOOR, HAJ HOUSE, 7-A (PALTON ROAD), M.R.A. MARG, MUMBAI-400 001.**

BY GOVERNMENT PLEADER SRI. BENJAMIN PAUL
SRI.P.PARAMESWARAN NAIR(ASST. SOLICITOR GENERAL)
ADV. SRI.V.K.MOHAMMED YOUSUF

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF GUIDELINES ISSUED BY THE 1ST RESPONDENT ON 29.5.2007.

EXT.P2: COPY OF NEWS ITEM PUBLISHED IN MATHRUBHOOMI DAILY DATED 21.6.2007.

EXT.P3: COPY OF NEWS ITEMS PUBLISHED IN MADHYAMAM DAILY DT.9.6.2007.

EXT.P4: COPY OF APPLICATION FOR HAJJ 2007 SUBMITTED BY THE 1ST PEITITIONER.

EXT.P5: COPY OF APPLICATION FOR HAJJ 2007 SUBMITTED BY THE 2ND PETITIONER.

EXT.P6: COPY OF APPLICATION FOR HAJJ 2007 SUBMITTED BY THE 3RD PETITIONER.

EXT.P7: COPY OF APPLICATION FOR HAJJ 2007 SUBMITTED BY THE 4TH PETITIONER.

EXT.P8: COPY OF APPLICATION FOR HAJJ 2007 SUBMITTED BY THE 5TH PETITIONER.

EXT.P9: COPY OF POST CARD EVIDENCING THE RECEIPT OF EXTS.P4 TO P8 APPLICATIONS.

EXT.P10: COPY OF ACKNOWLEDGEMENT RECEIVED BY THE 3RD PETITIONER FOR THE PREVIOUS YEAR.

EXT.P11: COPY OF NEWS ITEM PUBLISHED IN THEJAS DAILY ON 14TH JULY 2007.

EXT.P12: COPY OF APPLICATION DATED 21.7.2007 SUBMITTED BY THE 2ND PETITIONER.

TRUE COPY

P.A.TO JUDGE

ANTONY DOMINIC,J

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W.P.(C)No.23635 of 2007

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Dated this the 24th day of September 2007

JUDGMENT

The prayer in this writ petition is for a direction to the first respondent to include the petitioners in the select list for Hajj Pilgrimage for this year.

2. It is the contention of the petitioners that they should be excluded from draw of lots by which pilgrims are chosen. It is submitted that the first petitioner is aged 93 years and is entitled to have two companions who are petitioners No.2 and 5. Therefore, it is submitted that these three persons should be excluded from draw of lots. Similarly, in so far as third petitioner is concerned it is submitted that he was in the waiting list for the previous year and therefore he is entitled to similar exclusion. In so far as fourth petitioner is concerned he is over 70 years of age and is also entitled to exemption, submits the learned counsel for the writ petitioner.

3. A statement has been filed on behalf of the first

respondent in which it is stated that the Kerala State Hajj Committee had formulated guidelines in their meeting held on 8.7.2007 to select applications. It is stated that out of 20,551 applications, only 7,670 of them were eligible to include in the selected list. As regards the draw of lots, it is stated in Para 3 of the statement as follows:

> "Regarding the allegations raised by the petitioner in Para 4 it is submitted that the benefit of age above 75 years is granted only if the cover contain 3 persons. In this connection it is submitted that the Kerala State Haj Committee decided to include covers containing applications in which the 50% or above are above 70, without lot. In cover number KL-515-5 there are only 2 persons who are above 70 years and hence cannot be benefited under the clause. Regarding waiting list 2006-II it is submitted that the Kerala State Haj Committee had decided to include the Haj applicants who were in the 2006-II in the quota allotted for Haj 2007 without lot if and only if the persons in the waiting list 2006-II and in the new applicants were one and the same. If any persons was included afresh along with their cover the benefit given by Kerala State Haj Committee will be lost. Here along with the 3rd petitioner 4 new

persons were added in the cover and hence cannot be given the benefit. The petitioners is in no way can be included in the selection list of Haj 2007 without lot."

4. From this it is evident that guidelines had been framed by the committee and that has been uniformly followed even if the guidelines were framed after they made their applications will not render the guideline invalid. Petitioners do not contend that the method followed was not transparent or that they have been discriminated in this matter in any manner. Petitioners also do not have a complaint of malafidies or that anybody has been included the select list overlooking their claims. In this circumstances, I do not find any merits in this writ petition and this writ petition is dismissed.

Needless to state that if there are any vacancies, respondents would certainly consider the case of the petitioners subject to the case also.

ANTONY DOMINIC, JUDGE

dvs